

Senate Committee on Environment and Public Works
Hearing Entitled, “*The U.S. Environmental Protection Agency’s proposed Fiscal Year 2024 Budget*”
March 22, 2023
Questions for the Record for the Honorable Michael S. Regan

Chairman Carper

1. All EPA offices have lost engineers and scientists who have not been replaced. What is the Agency doing to ensure employee retention in areas where EPA is desperately in need of staff to implement climate regulations?

EPA RESPONSE: EPA is fortunate to have a dedicated staff that is committed to working efficiently and productively, often on the ground executing our mission in very visible ways in communities around the country by responding to emergencies and conducting inspections. I am committed to rebuilding EPA’s workforce over the next year. The success of EPA’s mission depends on our workforce, and we can’t support and retain the workforce without adequate payroll. EPA has had considerable success in back-filling critical positions where employees have retired or left the agency. Between April 2022 and April 2023, EPA gained 501 new employees across the hard sciences (occupational series within the biological (0400), medical (0600), veterinary medical science (0700), physical science (1300) occupational groups), and engineering (occupational series within engineering (0800) occupational groups). This gain is almost twice the loss of 259 employees across these series during the same time period.

2. Each EPA regional office is primarily responsible for enforcement of federal environmental law in the states covered by it. Enforcement is down to historically low numbers, and there has been a significant decline in environmental enforcement over the past two years. How is the Agency going to use the resources designated to increase enforcement at EPA?

EPA RESPONSE: Robust funding of enforcement and compliance work is essential for EPA to continue to ensure clean air, safe drinking water, and protection from toxic pollution in communities across the country. To address 21st century environmental problems, as reflected in the FY 2024 President’s Budget request, EPA’s enforcement program requires significantly more resources than EPA has had in recent years. Since FY 2011, EPA’s enforcement program lost more than 900 FTE, which accounts for nearly 30 percent of its workforce. EPA’s Inspector General directly tied this decline in resources to decreased enforcement activities between 2007 and 2018. Those declines continued through 2022. The FY 2023 Consolidated Appropriations Act and the Inflation Reduction Act provided approximately \$110 million in new funding and has enabled EPA to start the hiring

process for the additional inspectors and attorneys needed to rebuild the Agency's enforcement program. This new funding will allow EPA to replace about 15 percent of the FTE lost in the prior decade but that means nearly 85 percent of the enforcement and compliance FTE that EPA lost since FY 2011 have not been replaced. For FY 2024, the President's Budget requests \$547 million and 2,666 FTE for EPA to continue rebuilding our enforcement program to allow EPA to detect violations and promote compliance with environmental laws throughout the United States.

3. What measures are being tracked by the Biden Administration in assessing regional enforcement and compliance assurance performance other than those included in the EPA Enforcement and Compliance History Online website (ECHO)?

EPA RESPONSE: As part of EPA's efforts to rebuild its enforcement programs after a decade of budget cuts, the Agency is closely tracking regional enforcement and compliance assurance performance to ensure robust results in future years. EPA has a national enforcement and compliance data system, the Integrated Compliance Information System (ICIS), which supports both the compliance monitoring and civil enforcement programs. As EPA's largest mission-focused data system, ICIS is a critical infrastructure tool used by the Agency, state, tribal, local, and territorial governments to assess enforcement and compliance assurance performance and track compliance and enforcement of all EPA statutes, which facilitates greater compliance and thus protection of human health and the environment. States are a major user of this resource. For instance, 21 state governments depend on ICIS to directly manage their clean water permitting and compliance activities. EPA utilizes ICIS enforcement and compliance data and other information technology tools to: (1) identify potential violations of the federal environmental laws; (2) facilitate efficient enforcement; and (3) promote compliance with these requirements. ICIS data is available to the public via the internet-accessible Enforcement and Compliance History Online (ECHO) system as well as the companion data change notification tool ECHO Notify. Using ICIS and ECHO to electronically track and measure its civil enforcement work allows EPA to better ensure that its enforcement resources are used to facilitate transparency and address the most significant noncompliance problems, including noncompliance affecting overburdened or vulnerable communities and noncompliance that leads to climate impacts. Some of the measures that the Agency tracks regularly and reports in EPA's annual enforcement and compliance results (available at <https://www.epa.gov/enforcement/enforcement-and-compliance-annual-results-fiscal-year-2022>) include compliance monitoring (including percentage of on-site inspections at facilities affecting communities with potential environmental justice concerns), civil judicial and administrative case conclusions, environmental benefits of enforcement actions, and the value of complying actions (injunctive relief).¹ EPA, through the National Targeting Center, also utilizes the data in ICIS and ECHO to help identify the worst problem areas to align inspections and enforcement activities. EPA collaborates with state, local, federal, tribal, and industry partners,

¹ <https://www.epa.gov/enforcement/enforcement-and-compliance-annual-results-fiscal-year-2022>.

through the E-Enterprise initiative, to leverage technologies such as in promoting electronic reporting and permitting. EPA and states implement the National Pollution Discharge Elimination System (NPDES) Electronic Reporting Rule through NPDES electronic reporting tool (NeT), one key tool for improving the availability of clean water compliance data to EPA, states, and the public.

4. What measures will be used by EPA to track state enforcement program performance?

EPA RESPONSE: The early, meaningful, and substantial involvement of EPA’s co-regulator partners is critical to the development, implementation, and enforcement of the Nation’s environmental programs. In FY 2024, EPA will continue to work with states to improve compliance with environmental laws and statutes. EPA recently reaffirmed its longstanding commitment to “ensure the even-handed application and enforcement of federal environmental laws, regulations, and standards, and to provide states with the necessary assistance, tools, methods, and back-up support to solve environmental problems.”² The Agency implements its oversight responsibilities via a wide spectrum of activities, ranging from formal, retrospective reviews of program implementation that occur on a regular basis such as the State Review Framework, Permit Quality Review process (to assess whether NPDES permits meet CWA requirements), and other processes; to scheduled meetings between EPA and state program managers; to matter-specific consultations on high-profile or urgent matters. EPA expects states to collect, maintain, and share data with EPA about environmental outcomes, compliance and enforcement actions, and other activities the Agency may need to conduct effective oversight. Through the State Review Framework process, EPA reviews state performance using metrics such as inspection coverage, accuracy of violation determination, timely reporting of high priority violations and significant noncompliance, and timeliness and appropriateness of enforcement responses. The State Review Framework provides findings and makes recommendations to the states based on these metrics, and the Agency measures the progress of implementing these recommendations.

5. EPA has repeatedly stated that response to environmental emergencies like that in East Palestine is a major priority. If emergency response is a real priority of the EPA, what is the EPA doing to ensure that the Administration’s budget is spent on protection from the fallout of environmental emergencies and hiring adequate number of staff?

EPA RESPONSE: EPA is committed to protecting the health and safety of the American people during and after environmental emergencies. Under the Agency’s Superfund Removal Program, EPA maintains a 24-hour-a-day response capability, and during a national emergency, EPA takes action to prevent, limit, mitigate, or contain chemical, oil, radiological, biological, or hazardous materials releases. EPA Federal On-Scene Coordinators (OSCs) are trained and equipped EPA personnel that respond to, assess, mitigate, and clean up environmental releases. EPA also

² <https://www.epa.gov/system/files/documents/2023-03/principles-and-best-practices-oversight-federal-environmental-programs-2023.pdf>.

provides technical assistance and outreach to industry, states, Tribes, and local communities as part of the Agency's effort to ensure national safety and security for chemical and oil responses.

The FY 2024 President's Budget proposes to transition the Superfund Emergency Response and Removal Program from the annual Superfund appropriation to the Superfund tax receipts. The U.S. Treasury forecasts collecting a total of \$2.54 billion in Superfund tax receipts in FY 2023 which will be available for use in FY 2024 across EPA Superfund programs. In February 2023, the U.S. Treasury made a downward adjustment to the Superfund taxes collected in FY 2022 from \$413 million to approximately \$159.8 million, a reduction of approximately 61.3 percent. EPA will continue to closely monitor the collections of Superfund tax receipts. If a downward adjustment to Superfund taxes in FY 2023 occurs, EPA is committed to working closely with Congress to continue to ensure that the Agency's Superfund Emergency Response and Removal Program has the necessary resources to protect the health and safety of the American people during and after environmental emergencies.

6. How is the EPA using its current funding to support scientific integrity?

EPA RESPONSE: EPA is committed to scientific integrity, which EPA defines as the adherence to professional practices, ethical behavior, and the principles of honesty and objectivity when conducting, managing, using the results of, and communication about science and scientific activities. We have taken, and continue to take, actions that ensure scientific integrity is upheld at the Agency.

EPA is using its current funding to support scientific integrity across the Agency through its Scientific Integrity program and committee, which develops and implements training and outreach for all staff, including both career staff and political appointees. The Scientific Integrity program also responds to employee questions about scientific integrity, provides advice related to scientific integrity queries, and evaluates any allegations of a lapse of scientific integrity. This year, EPA funding has supported the update of EPA's Scientific Integrity Policy and the advancement of a culture of scientific integrity through EPA by working to implement actions under EPA's Strategic Plan, Cross-Agency Strategy 1, *Ensuring Scientific Integrity and Science Based Decision Making*. This work is advanced through the leadership of EPA's Scientific Integrity Official, Deputy Scientific Integrity Officials, and several senior support staff who operationalize this work across the Agency.

In the 2020 OIG report on the implementation of EPA's Scientific Integrity Policy, EPA was recognized for the steps taken to build capacity, invest in, and maintain agency expertise in scientific integrity. And in a 2019 GAO report on scientific integrity at federal agencies, EPA was recognized for its excellent Scientific Integrity Policy and its leadership in implementing it.

Senator Cardin

1. As you work this year to finalize a rule for greenhouse gas emissions reductions from heavy duty vehicles, can you please describe how you will take into consideration the availability of electric charging infrastructure to support a transition to zero emission trucks?
 - a. How will you ensure the pace of delivery of charging infrastructure does not present any barriers to the pace of adoption of new, cleaner heavy duty vehicles?

EPA RESPONSE: EPA is taking action to accelerate towards a clean vehicles future as part of the Agency's Clean Trucks Plan. EPA recently issued a proposal to reduce greenhouse gas emissions from heavy-duty vehicles beginning in Model Year 2027. That comment period is open through June 16, 2023, and EPA held a public hearing on May 2-3, 2023. We expect robust public comments on this issue.

At the same time, the Agency received \$1 billion in funding from the Inflation Reduction Act for clean heavy-duty vehicles. The program provides funding to deploy infrastructure needed to charge, fuel, and maintain zero-emission vehicles and develop and train the necessary workforce to support it.

Ranking Member Capito

1. During your testimony in response to my question regarding the seven-percent administrative set aside for the EPA to manage the Environmental and Climate Justice Block Grant Program and the twenty-percent administrative set-aside EPA announced for pass-through Community Based Organizations you said, "these are similar percentages to all of our administrative oversight and cost dollars for pass-through and grant programs." Based on a review of existing programs, this magnitude of administrative set-asides seems much higher than other EPA programs. For example, the Clean Water and Drinking Water SRFs have significantly lower set-asides on a percentage basis. The Brownfields grant program has a five-percent administrative set-aside. The Lead Contamination in School and Child Care Drinking Water Program has a four-percent administrative set-aside. The only program I have identified that has a set-aside approaching the level that the EPA is planning for the Environmental and Climate Justice Block Program is the State and Tribal Radon Grants program, at 25 percent. How is the proposed set-aside of 20 percent for pass-through entities (which is not provided for in the statutory text) on top of the seven-percent set-aside provided for in the statutory text consistent with other pass-through and grant programs?

EPA RESPONSE: Thank you for the opportunity to clarify the issue of administrative oversight for our environmental justice grant programs. The Environmental and Climate Justice block grant program is required by law under Clean Air Act section 138 (c) to have a 7 percent administrative set aside for EPA to

carry out the program. This set aside covers costs for EPA staff and contractor support. The 20 percent figure under the grant-maker pass-through awards is not a set-aside, but rather will be a term of the grants that provides that, in order to ensure program effectiveness, a minimum of 80 percent of the total funds under each award must be provided by the pass-through grantee to subrecipients to implement the program. A maximum of 20 percent of the grant funds may be used by the grantee to cover costs for their personnel and contractors who administer the grant-maker awards and oversee subrecipient performance. Grantees need to use a reasonable portion of the award to effectively carry out programmatic and administrative responsibilities for coordination and oversight of subawards to ensure the responsible use of federal funds.

2. What specific reporting, tracking, and accountability requirements is the EPA going to impose on “Community-Based Nonprofit Organization” pass-through recipients to protect against waste and fraud in administration of the Environmental and Climate Justice Block Grant program?

EPA RESPONSE: The Agency intends to provide robust oversight and monitoring of these funds to ensure they are effectively and efficiently managed. EPA’s Subaward Policy, which was established in response to recommendations by the EPA Office of Inspector General, provides information to pass-through entities on how EPA oversees pass-through entity performance and includes information on what types of projects may be carried out through subawards. EPA provides pass-through entities with a template subaward agreement that complies with regulatory requirements. EPA’s General Terms and Conditions (T&C) include the Establishing and Managing Subawards T&C which describes pass-through entity responsibilities for subrecipient oversight.³

In addition, EPA’s “Subaward Policy Additional Resources” include over 30 pages of Frequent Questions on subawards and other financial transactions as well as a list of “cross-cutting” Federal requirements that pass-through entities “flow down” to their subrecipients.⁴ However, EPA’s compliance assistance activities for pass-through entities do not end with developing and posting guidance materials. The Agency has a robust training program for applicants and recipients that cover all federal requirements for applying for and managing a grant. Information on EPA’s training program and other resources for applicants and recipients at <https://www.epa.gov/grants/epa-grants-webinars>.

EPA will also impose standards for controls to ensure that representatives of community-based nonprofit organizations involved in the design and decision-making for the subgrants programs do not have relationships with organizations

³ EPA’s Subaward Policy and Fiscal Year 2023 General Terms and Conditions are available at the following links: https://www.epa.gov/sites/default/files/2020-11/documents/gpi-16-01-subaward-policy_attachments.pdf and https://www.epa.gov/system/files/documents/2022-09/fy_2022_epa_general_terms_and_conditions_effective_october_1_2022_or_later.pdf.

⁴ <https://www.epa.gov/grants/epa-subaward-policy-additional-resources>.

competing for subgrants or receiving noncompetitive funding that create actual or apparent conflicts of interests. Those controls must comply with EPA's *Financial Assistance Conflict of Interest Policy*. EPA requires compliance with the Conflict of Interest Policy through the General Terms and Conditions, Disclosing Conflicts of Interest section, which applies to all EPA assistance agreements.

With respect to allowability of costs—including ineligible activities like lobbying—EPA provides applicants and recipients with detailed guidance in our *Interim General Budget Development Guidance for Applicants and Recipients of EPA Financial Assistance, Selected Items of Cost Guidance, and Participant Support Cost Guidance*. EPA staff closely review applicant budgets during pre-award reviews to verify that activities are eligible for funding.

EPA has a number of tools for monitoring recipient performance to prevent the use of EPA funding for activities or projects that are ineligible for funding. These tools are described in EPA Order 5700.6 Policy on Compliance, Review and Monitoring a copy of which is attached. EPA also pays particular attention to the capabilities of nonprofit organizations, an entity type that EPA anticipates receiving most pass-through recipients' applications from, through the procedures established in EPA Order 5700.8 Policy on Assessing Capabilities of Non-Profit Applicants for Managing Assistance Awards. EPA Order 5700.8 reflects EPA's view that it is preferable to address capabilities issues before, rather than after, an assistance agreement is awarded. Accordingly, Order 5700.8 prescribes uniform pre-award procedures for evaluating the administrative and programmatic capability of non-profit applicants. Order 5700.8 also establishes uniform post-award procedures for addressing a material failure to comply by non-profit recipients. Taken together, these procedures strengthen Agency oversight by helping to prevent or rectify financial mismanagement or poor performance by non-profit recipients.

3. Will the EPA announce requirements to address the issues in the preceding question to pass-through entities prior to awarding grants under this program?

EPA RESPONSE: Yes. EPA communicates policies, Terms and Conditions, and other reporting and compliance requirements through the Notice of Funding Opportunity. The Agency also emails Recipient/Applicant Information Notices for all existing and new grants policies and requirements and posts them at <https://www.epa.gov/grants/epa-policies-and-guidance-grants>. In addition, the Agency is developing an internal Program Integrity Framework to help EPA strengthen tracking of grant investments, and also to further identify risks, ensure internal controls function, and reduce the risk of fraud, waste, and abuse.

4. In your testimony, you committed to providing a list to the Committee of all Community-Based Nonprofit Organizations that are chosen as pass-through entities under the Environmental and Climate Justice Block Grant program. Please submit that list to the Committee as soon as selections have taken place.

EPA RESPONSE: We will provide that information to the Committee after Grantmaker selections are announced.

5. What are the total number of current EPA employees in the office for a full five-day work week every week?

EPA RESPONSE: Similar to other large organizations in government and in the private sector, EPA operates in a hybrid environment, with employees who work on-site, remotely, or in some hybrid capacity.

6. What are the total number of EPA employees in the office for three or fewer days every week?

EPA RESPONSE: Similar to other large organizations in government and in the private sector, EPA operates in a hybrid environment, with employees who work on-site, remotely, or in some hybrid capacity.

7. What are the total number of EPA employees in the office for three or fewer days every two weeks?

EPA RESPONSE: Similar to other large organizations in government and in the private sector, EPA operates in a hybrid environment, with employees who work on-site, remotely, or in some hybrid capacity.

8. What are the total number of EPA employees in the office for one or fewer days every two weeks?

EPA RESPONSE: Similar to other large organizations in government and in the private sector, EPA operates in a hybrid environment, with employees who work on-site, remotely, or in some hybrid capacity.

9. What are your planned work arrangements for the thousands of new hires in your budget proposal?

EPA RESPONSE: As a model employer, EPA will integrate new hires into our hybrid work environment, which includes leveraging the workplace flexibilities available to current EPA employees.

10. What percentage of office space at EPA headquarters is actually occupied on a daily basis?

EPA RESPONSE: EPA will continue to re-envision the physical workspace of the Agency through facility modernization, to ensure that the Agency has the optimal footprint for a hybrid workforce, and to identify opportunities to reduce leased space to decrease EPA's rent costs.

11. Were the EPA's negotiated memoranda of understanding with employees' union AFGE Council 238 a significant factor when setting workplace occupancy policies?

EPA RESPONSE: EPA continues to engage and work extensively with its unions to establish timelines and flexible workforce policies for the use of our physical offices. EPA signed an Interim Agreement with AFGE to comply with Executive Order 14025. The Agency is dedicated to improving its relationship with its unions, and we have made progress on negotiations over our workplace flexibility policies.

12. In February 2023, the EPA finalized its revised Financial Capability Assessment Guidance, which is a critical tool designed to gauge how much a community can afford to pay to meet its Clean Water Act compliance requirements. Can you explain the process for how this document was altered from previous iterations?

EPA RESPONSE: EPA is committed to ensuring that all Americans have access to essential water services and clean water. The Financial Capability Assessment (FCA) guidance provides a framework to help achieve that goal for rural, suburban, and urban communities across the country. The updated Financial Capability Guidance outlines strategies that municipalities can employ to reduce costs and relieve the burden on low-income residents while ensuring clean water for residents. In FY2016, Congress directed EPA to utilize the National Academy of Public Administration (NAPA) to conduct an independent study to create a definition and framework for community affordability. NAPA issued its report in 2017, with 21 recommendations. In response to NAPA's report and feedback from other stakeholders, EPA published a *Federal Register* Notice (FRN) on September 18, 2020, to request public comment on a revised methodology for evaluating a community's capability to fund Clean Water Act projects/programs. After incorporating comments and other feedback, on February 23, 2022, EPA published another FRN requesting additional comments. EPA published the updated Financial Capability Assessment (FCA) Guidance on February 3, 2023.

13. Can you provide a list of stakeholders that were consulted before releasing the revised Financial Capability Assessment Guidance?

EPA RESPONSE: EPA held a number of stakeholder meetings before issuing the FCA Guidance. This included a series of meetings in the fall of 2021 with organizations including, but not limited to, the U.S. Conference of Mayors, National Association of Counties, National League of Cities, Natural Resources Defense Council, National Association of Clean Water Agencies, American Water Works Association, Water Environment Federation, and the Association of Clean Water Administrators. EPA held additional outreach meetings with many of these same groups prior to the release of the revised FCA Guidance.

14. While IJIA funds are available until expended, under both the Clean Water Act and the Safe Drinking Water Act, states have to attach the funding to specific projects within two years. EPA allocated the first tranche of IJIA SRF funding to states on December 2, 2021.

On December 2, 2023, is the EPA going to reallocate those 2022 funds to other states if the original recipient cannot establish its assistance agreements by then?

EPA RESPONSE: The Bipartisan Infrastructure Law provides EPA with funding over a five-year period, from FY 2022 through FY 2026. Pursuant to the Clean Water Act and the Safe Drinking Water Act, SRF funding is available for award to the states during the fiscal year in which it is appropriated and the following fiscal year.

For example, for FY 2022 funding, states have until September 30, 2023 (end of FY 2023) to receive their SRF capitalization grant awards. After this date, any unawarded FY 2022 funds are subject to reallocation by EPA. However, once the states receive their capitalization grants, they have additional time to enter into assistance agreements with eligible entities and provide this funding to high priority projects.

15. There are a lot of reasons a state may need more time to identify specific projects for funding, including necessary time to provide technical assistance to help the neediest communities. Do you believe the timeframe should be extended, and does the EPA need new authority to do so?

EPA RESPONSE: The CWA and SDWA offer states a sufficient timeframe to identify projects and to provide technical assistance to the neediest communities to ensure they receive their fair share of SRF funding.

Upon receiving its capitalization grant award, a state works with EPA to establish a grant payment schedule based on when it expects to be able to make assistance agreements. A grant payment schedule can extend to 8 quarters after the grant is awarded or 12 quarters after funds are made available by the appropriation, whichever is sooner. Once a grant payment is made, a state has up to one year to enter into assistance agreements equal to that grant payment and accompanying state match. To extend these schedules, EPA would need new authorities.

16. As the EPA has worked to implement the IIJA, there seems to be a pattern that we have seen with other agencies like the Federal Highway Administration⁵ where an agency is pushing states to implement policy priorities that Congress either considered and rejected, or explicitly did not direct the agency to implement in the statute. One recent example is EPA guidance on the state revolving loan funds, reauthorized and funded in historic fashion in the IIJA, that pushes states to rewrite their definitions of disadvantaged communities and affordability criteria in line with the Administration's Justice40 initiative, despite the fact that the Safe Drinking Water Act explicitly gives states the authority to define disadvantaged communities and affordability criteria within their borders. See March 2022 SRF Memo, available at: https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf. During your testimony you underscored the EPA's goal to

⁵ <https://www.gao.gov/assets/820/814061.pdf>

force states to change their policies and definition, not in line with the IIJA and SDWA, but instead the EPA's and Administration's policies that have not be mandated or delegated by Congress. Specifically, you said in your testimony, "So we are excited to see that many States are actually revising the definitions of disadvantaged communities for the State Revolving Loan Fund programs as a result of our guidance." Under what statutory authority do you believe you are you acting to limit flexibility for states to administer the SRFs in the March 2022 SRF Memo?

EPA RESPONSE: In the Bipartisan Infrastructure Law, Congress included additional subsidization requirements to ensure that disadvantaged communities have access to SRF funding to improve their water infrastructure to protect public health. EPA's March 8, 2022 Memorandum, "Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law," reinforces the Agency's commitment to working with states, tribes, and territories to maximize the impact of BIL funds in addressing urgent water challenges facing communities. The memo emphasizes that a key priority of the Agency is to "provide flexibility to meet local water needs." The memorandum affirms that states have significant flexibility in administering the SRF programs, including the authority and responsibility to establish affordability criteria under the CWA and define a disadvantaged community under SDWA, and underscores EPA's commitment to supporting states that wish to review and improve their affordability criteria and disadvantaged community definitions to meet local needs.

17. EPA has the authority to direct grants to underserved communities already, see section 1459A of the Safe Drinking Water Act, which it is not utilizing. So why is the EPA treading on the states' statutory authority to determine their own needs through the SRFs with the March 2022 SRF Memo?

EPA RESPONSE: In its March 2022 Bipartisan Infrastructure Law (BIL) SRF implementation memo, EPA affirms the flexibility granted in statute for each state to establish its own affordability criteria and definition of a disadvantaged community.

The SDWA requires states to establish definitions of disadvantaged communities, which determine a public water system's eligibility to receive grants or forgivable loans as additional subsidization. The BIL mandates that 49 percent of funds provided through the DWSRF General Supplemental Funding and the DWSRF Lead Service Line Replacement Funding must be provided as additional subsidization as grants and forgivable loans to disadvantaged communities. The BIL also requires, as provided in section 1452(a)(2)(G) of SDWA, that not less than 25 percent of funds provided through the DWSRF Emerging Contaminants Funding be provided as grants and forgivable loans to disadvantaged communities or public water systems serving fewer than 25,000 people.

For the CWSRF, the BIL mandates that 49 percent of funds provided through the CWSRF General Supplemental Funding must be provided as grants and forgivable

loans to the following assistance recipients or project types, as described in section 603(i) of the CWA: municipalities that meet the state’s affordability criteria; municipalities that do not meet the state’s affordability criteria but seek additional subsidization to benefit individual ratepayers in the residential user rate class; and entities that implement a process, material, technique, or technology that addresses water or energy efficiency goals, mitigates stormwater runoff, or encourages sustainable project planning, design, and construction.

18. Will the EPA rescind the portion of the March 2022 SRF Memo that is inconsistent with Congress’s delegation to States—not the EPA—to make determinations that reflect the needs and unique circumstances within their jurisdictions?

EPA RESPONSE: Congress, acting in a bipartisan fashion, included additional subsidization provisions in the BIL SRF appropriations to ensure that disadvantaged communities fully benefit from these historic investments in the water sector. The Agency’s March 8, 2022 Memorandum, “Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law,” affirms that, consistent with SDWA and the CWA, states have the flexibility to define a disadvantaged community and establish affordability criteria and that EPA will support states to fully meet the statutory requirements for additional subsidization. This is one reason why EPA recommended that states review their definitions of disadvantaged community established under SDWA and affordability criteria established under the CWA. EPA offered recommendations on factors that states could consider when updating those definitions and affordability criteria to ensure they are reflective of current affordability issues within the state. Moving forward, EPA will continue to work with states to both ensure maximum flexibility while also providing oversight to ensure that disadvantaged communities benefit from these investments, consistent with the statutory requirements.

19. In 2016 in the WIIN Act, Senator Sullivan and I drafted Section 1459A of the Safe Drinking Water Act to provide a pot of money for direct EPA grants to small and disadvantaged communities, with a requirement to give priority to underserved communities. The EPA has never implemented that provision as drafted. Instead of issuing direct grants to underserved communities, the EPA has instead given all the money it received for that program to states and allocated the funds using the SRF formula. This approach guarantees that the majority of the money will go to larger communities with the capacity to hire engineers, accountants, and lawyers. The SRFs are hugely successful, but the neediest communities need a different approach, like direct grants. What will the EPA do to account for this disparity before all the IIJA funds are expended?

EPA RESPONSE: The WIIN Act grant program under section 1459A of SDWA was authorized to focus on small, underserved, and disadvantaged communities. These communities often have limited capacity to apply for and manage Federal grants, as small and disadvantaged water systems often lack technical and financial

capacity. They are also more likely to need substantial assistance to understand and address cross-cutting grant requirements, such as the Build America, Buy America Act and the Endangered Species Act. EPA's implementation approach, through the support of the states, is the best way to reach and fund projects prioritizing drinking water infrastructure improvements. Additionally, the states can administer the grant funding and provide oversight and assistance to communities with limited resources.

As section 1459A of SDWA requires, eligible communities for the grant program include those that do not have household drinking water or wastewater services; or are served by a public water system that violates, or exceeds, as applicable, a requirement of a national primary drinking water regulation. A state must submit a project workplan that includes communities that are small or disadvantaged, and the communities must meet the statutory underserved criteria. All of the funds under this grant program have gone to projects that support underserved communities.

20. How much Section 1459A funding currently is going to underserved communities?

EPA RESPONSE: Under the SDWA section 1459A grant program established by the WIIN Act, all federal funding awarded is going to projects/activities that serve underserved communities. The program has awarded over \$65 million to states, territories, and Tribes, which has contributed to over \$83 million in project investments in underserved communities across the country.

21. In terms of the Toxic Substances Control Act (TSCA) program, does the EPA intend to factor in the decreased revenue stemming from reduced pre-manufacture notices (PMNs) in its budgeting calculations?

EPA RESPONSE: EPA's TSCA budget situation continues to be a challenge. Despite facing a significant increase in responsibility and ambitious statutory deadlines from the 2016 amendments to TSCA, the previous Administration did not request increased resources for the TSCA program. The nearly \$18 million increase in FY 2023 TSCA program funding is a welcome investment but is short of what is needed.

As revisions to the TSCA fees are still in the proposal stage (<https://www.epa.gov/tsca-fees/proposed-revisions-tsca-fees-rule>), the impact of the rule on the number of new chemical submissions to EPA is not yet known. In Fiscal Year 2023, EPA anticipates receiving between 400 and 500 PMN submissions, which is similar to previous years. If funding from the Bipartisan Infrastructure Law and Inflation Reduction Act incentivizes investments in new chemistries for electric vehicles, semiconductors, and hydrofluorocarbon replacements, such submissions may actually increase.

22. Despite hiring additional health assessors, there has not been a noticeable increase in the number of new chemical determinations completed. Please explain why productivity has not improved despite more than doubling the number of health assessors on staff compared to 2022.

EPA RESPONSE: For the past seven months, EPA received about 231 new FY 2023 submissions, and in the same timeframe has completed 272 risk assessments and 207 risk management actions, which includes FY 2023 and older submissions.

In 2022, EPA made major improvements to its Statistics for the New Chemicals Review Program public webpage (<https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>). The information provided on the webpage demonstrates that EPA's performance in reviewing new chemical submissions is improving. In the last seven months (October 2022 through April 2023), EPA completed over 270 risk assessments, and has increased monthly risk assessment completion by more than 50 percent when compared to monthly rates from July 2022 to September 2022. This progress is a result of EPA's aggressive recruitment efforts, training and mentoring of employees, and continuous improvement of the Agency's review procedures.

23. The number of PMNs under review for greater than the statutory limit of 90 days has increased approximately 43 percent—from 204 in January to 357 as of March 2023. How will you address the number of submissions in the backlog?

EPA RESPONSE: In the past seven months, EPA received 231 new FY 2023 submissions, has completed 272 risk assessments, and 207 risk management actions for FY 2023 and older cases. EPA anticipates that throughput will continue to increase as we train six new human health assessors hired as of April 21, 2023. Previously we had two assessors, and now have ten through a combination of new hires and detailees, with an eleventh expected to begin soon and two more new hires expected after that. As we continue our hiring and recruitment efforts, and find more opportunities to streamline/standardize reviews, and/or develop new/update existing science policies, we will successfully close out additional cases.

EPA has also started to build the scientific and other infrastructure needed to meet TSCA's requirements to quickly and protectively review new chemicals. EPA has updated science policies, implemented an aggressive recruitment and hiring plan, developed enhanced training and mentoring for new and existing staff, and engaged in ambitious efforts to standardize approaches for similar compounds with similar uses for which multiple submissions have been received. For example, EPA just concluded a two-part webinar series on its new standardized risk assessment approach for mixed metal oxides. The approach implements a more efficient process to assess risk and apply mitigation measures for this group of chemicals used in electric vehicle batteries, semiconductors, and other energy sectors. EPA is also engaging with the fragrance industry to explore whether a standardized approach for assessing certain ingredients in fragrances is scientifically appropriate.

In addition, in February 2023, EPA concluded its engineering initiative three-part webinar series to reduce “re-work” of initial risk assessments. Rework is often necessary when submitters supplement incomplete initial new chemical review submissions, which contributes to delays in EPA’s reviews of these chemicals. When PMN submitters supplement their initial submissions with new information, EPA must dedicate resources to additional review of those submission, reducing the resources available to review new submissions. EPA conducted outreach to ensure that submitters have the information they need to submit notices that move through the new chemicals review process as quickly as possible.

24. How does the EPA internally track its progress in addressing PMNs subject to review for greater than 90 days?

EPA RESPONSE: EPA uses an internal database, New Chemical Review (NCR), to track the number of days a chemical is in review. If a company voluntarily suspends a case beyond the initial 90 days, the new day-90 is captured in NCR. Progress in addressing PMNs in review beyond the initial day-90 is reflected on EPA’s new chemicals statistics webpage (<https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>).

- a. If the EPA utilizes metrics, would the Agency share a list of these metrics with the Committee?

RESPONSE: EPA’s public webpage, “Statistics for the New Chemicals Review Program under TSCA,” provides a range of regularly updated information about the new chemicals program. (<https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>)

- b. Does the EPA intend to make these metrics publicly available?

EPA RESPONSE: EPA’s public webpage, “Statistics for the New Chemicals Review Program under TSCA,” provides a range of regularly updated information about the new chemicals program (<https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/statistics-new-chemicals-review>).

25. Wire transfer payment options can be submitted to the EPA to cover fees related to the Office of Pesticides Program (OPP) for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Pesticide Registration Improvement Act of 2022 (PRIA 5). Why did EPA choose to exclude wire transfer as a TSCA fees payment option?

EPA RESPONSE: EPA’s selection of Pay.gov for electronic payment of TSCA fees using a credit or debit card allows the Agency to easily track and verify payments,

linking payments directly to submissions. Additionally, Pay.gov allows verification of fee payments required at the time of submission, which is necessary for the Agency's new chemicals program. EPA considered allowing payment of TSCA fees using Fedwire—generally used for foreign payments—through which payers authorize a financial institution to initiate a wire transfer to the Federal Reserve Bank of New York. However, in line with the 2018 TSCA fees rule, that “Fedwire is not a viable option for the Agency's current financial systems,” also adding that Fedwire does not currently provide the tracking and transmittal options that Pay.gov does. Also due to the chronic underfunding of the TSCA program, the additional effort required to track wire payments and connect them to the payer would impose a significant burden on the EPA. EPA will revisit the 2018 decision if additional resources are provided to implement TSCA. EPA made the decision very earlier on, prior to their current full time equivalent (FTE) challenges, when the original PRIA authorization had passed, to dedicate additional FTE to make the wire transfer option work. Given the current challenge for the TSCA program of reduced funding, however, the decision was made not to dedicate limited TSCA FTE to this effort at this time.

26. What is the EPA's plan to meet its statutory deadlines for risk evaluation and risk management considering it is already behind schedule for this year?

EPA RESPONSE: Because the TSCA program has been chronically underfunded, EPA will not meet most of its current statutory deadlines. EPA is working to identify efficiencies in its risk evaluation and risk management processes in order to develop a leaner, more focused approach to meet TSCA's timelines while still using the best available science. The risk management efficiencies will allow the Agency to get rules in place to protect our affected communities more quickly.

For example, EPA is developing TSCA section 5(a)(2) significant new use rules (SNURs) that align with the timing of current and future risk evaluations under TSCA section 6 in order to assist with identifying uses relevant to TSCA risk evaluations early in the risk evaluation process. This helps to avoid reworking or scrambling to understand and analyze uses that are identified later through systematic review, subsequent public comment periods, or other stakeholder engagement.

As another example EPA is creating a sustainable pipeline of chemicals for evaluation under TSCA. In the near term, EPA aims to prioritize chemicals from the 2014 Update to the TSCA Work Plan for Chemical Assessments to build on the substantial work already completed to characterize these chemicals. Going forward, EPA expects that approximately five chemicals per year will be prioritized for risk evaluation. This would enable EPA to more effectively balance our risk evaluation workload while moving a consistent number of chemicals into risk management. A pipeline approach also allows for more interaction with the regulated community at regular, predictable intervals. In addition to soliciting public comment on the chemicals proposed for prioritization during the prioritization process, EPA expects

to, during the pre-prioritization phase, actively engage industry to increase EPA’s understanding of the relevant sectors and conditions of use for the chemical substances to inform risk evaluations.

27. Does the EPA intend to implement a cumulative impacts approach to risk evaluations under TSCA?

a. If so, when are changes expected to be released to the public?

EPA RESPONSE: TSCA does not explicitly require EPA to conduct cumulative risk or impacts assessments. TSCA requires EPA to consider the reasonably available information, as well as use of the best available science to make decisions based on the weight of scientific evidence. For some chemical substances undergoing risk evaluation, the best available science may indicate that the development of a cumulative risk assessment (assessing risk from exposure to multiple chemicals) is appropriate to ensure that any risks to human health and the environment are adequately characterized. EPA is proposing to conduct a cumulative risk assessment for a subset of high-priority and manufacturer-requested chemicals currently undergoing risk evaluation.

Analysis of “cumulative impacts” may consider factors beyond cumulative risk assessment, such as the impact of non-chemical stressors on susceptibility to disease caused by chemical exposure. EPA and others are working to advance the science on the inclusion of factors such as non-chemical stressors in chemical risk evaluation. As the science advances, EPA’s TSCA program will continue to consider how to incorporate it in chemical risk evaluation and management efforts.

At present, for the phthalate chemicals undergoing TSCA section 6 risk evaluations, EPA is proposing an approach to apply cumulative risk assessment approaches in parallel with conducting risk evaluations on the individual phthalate chemicals. The proposed methodology is explained in “Draft Proposed Approach for Cumulative Risk Assessment of High-Priority Phthalates and a Manufacturer Requested Phthalate Under the Toxic Substance Control Act,” which was released for public comment and peer review in February 2023. By releasing this approach for public comment and peer review now, EPA is ensuring that the methods used to conduct the cumulative risk assessment will be based on the best available science. The results of this peer review are expected to allow EPA to advance its use of cumulative assessment, while still meeting its obligations for evaluating high-priority and manufacturer-requested chemicals.

28. How will the EPA ensure that its intended approach to cumulative risk evaluation does not further slow risk evaluations?

EPA RESPONSE: As noted above, the TSCA Program has been chronically underfunded. Regardless of whether EPA has the resources needed to meet risk evaluation deadlines, EPA is still obligated to use the best available science in its risk

evaluations and for some chemical substances undergoing risk evaluation. The best available science may indicate that the development of a cumulative risk assessment is appropriate, to ensure that any risks to human health and the environment are adequately characterized. At this time, EPA does not anticipate the cumulative risk approaches being considered will significantly slow risk evaluation development.

29. Has the Integrated Risk Information System (IRIS) program ever been authorized by Congress?

EPA RESPONSE: The IRIS Program supports implementation of EPA's risk assessment requirements as described in numerous Federal statutes. This includes the Clean Air Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and the Toxic Substances Control Act. The authority for the IRIS Program's mission of developing assessments that evaluate potential human health effects that may result from exposure to environmental contaminants, is contained in the relevant research and risk assessment requirements within statutes governing the EPA. EPA continues to receive annual appropriations to its Science and Technology (S&T) account that funds the IRIS program and routinely receives programmatic direction contained within supplemental appropriations documentation.

30. What statutory authority granted to the EPA's Office of Research and Development do you believe authorizes the development and issuance of IRIS assessments?

EPA RESPONSE: The IRIS Program supports implementation of EPA's risk assessment requirements as described in numerous Federal statutes. This includes the Clean Air Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and the Toxic Substances Control Act. The authority for the IRIS Program's mission of developing assessments that evaluate potential human health effects that may result from exposure to environmental contaminants is contained in the relevant research and risk assessment requirements within statutes governing the EPA. EPA continues to receive annual appropriations to its Science and Technology (S&T) account that funds the IRIS program and routinely receives programmatic direction contained within supplemental appropriations documentation.

31. Has an IRIS assessment ever been used to displace the rulemaking and risk assessment processes under any congressionally authorized statutes?

EPA RESPONSE: IRIS assessments are only one part of EPA's risk assessment process, providing scientific information on hazard identification and dose-response analysis. During EPA's rulemaking and risk assessment processes, EPA offices and regions separate from the IRIS program combine the scientific conclusions regarding hazard identification and dose response analysis from IRIS assessments with other scientific information, including information on human exposure, to characterize risk (i.e., risk assessment) and inform decisions. Such decisions

incorporate risk management policy considerations and undergo separate development and rule-making review processes outside the IRIS program. The use of IRIS assessments, and other scientific assessments, to inform decisions is consistent with the EPA's Strategic Plan Strategy No. 1 to ensure scientific integrity and science-based decision making.

32. Why did EPA choose to not include a separate line item for IRIS in its budget request?

EPA RESPONSE: The IRIS program is a part of the larger Health and Environmental Risk Assessment (HERA) Program/Project and the Chemical Safety for Sustainable (CSS) Program Area within the EPA budget structure. Consistent with prior years, IRIS is not its own budget line-item within the structure of the President's Budget submission.

33. Please provide the total spending and full-time equivalents working under the IRIS program.

EPA RESPONSE: Within the FY 2023 enacted budget, EPA has allocated \$11.3 million and 40 FTE for IRIS.

34. Please provide a list of all cases where the EPA utilized an IRIS assessment to take enforcement action against a facility.

EPA RESPONSE: EPA's Office of Enforcement and Compliance Assurance (OECA) addresses pollution problems that impact American communities through vigorous civil and criminal enforcement. Those enforcement activities target the most serious water, air, and chemical hazards. OECA works with EPA regional offices, and in partnership with state and tribal governments, and other federal agencies to enforce the Nation's environmental laws, including: Clean Air Act, Clean Water Act, Comprehensive Environmental Response, Compensation, and Liability Act, Emergency Planning and Community Right-to-Know Act, Federal Insecticide, Fungicide, and Rodenticide Act, Marine Protection, Research, and Sanctuaries Act, Oil Pollution Act, Resource Conservation and Recovery Act, Safe Drinking Water Act, and Toxic Substances Control Act.

EPA does not comment on active enforcement actions. Nevertheless, enforcement actions are taken to address violations of federal environmental statutes. To the extent that an IRIS assessment informed an enforcement action with scientific information regarding hazard and dose-response for chemical(s) of interest, it would be set forth in the complaint. Scientific information regarding hazard and dose-response is typically combined with other scientific information related to exposure and risk characterization to inform decisions. Furthermore, enforcement actions have risk management considerations that are separate from the scientific assessments developed by IRIS. The use of IRIS assessments, and other scientific assessments, to inform decisions is consistent with the EPA's Strategic Plan Strategy No. 1 to ensure scientific integrity and science-based decision-making.

35. Please provide a list of all cases where the EPA utilized an IRIS assessment to deny a permit application or renewal from a facility.

EPA RESPONSE: As noted above, IRIS assessments contribute to the scientific basis for decisions made under an array of environmental laws, including the Clean Air Act, Clean Water Act, Safe Drinking Water Act, Toxic Substances Control Act, and Comprehensive Environmental Response, Compensation, and Liability Act. To the extent that an IRIS assessment informed a permitting action, it would be set forth in the decision document.

36. Are IRIS assessments considered regulations or final agency actions subject to the Congressional Review Act?

EPA RESPONSE: No. Policy-neutral, scientific documents, including IRIS assessments, are not rulemakings under the APA definition and therefore not subject to the Congressional Review Act.

37. Are IRIS assessments subject to an interagency review process?

EPA RESPONSE: The IRIS Assessment Development Process includes an interagency science consultation and an interagency science discussion.

38. Why has EPA not developed an IRIS Assessment Plan or Systematic Review Protocol for formaldehyde?

EPA RESPONSE: The draft formaldehyde assessment had already completed Step 1 of the IRIS process (draft development) when the IRIS program first established the practice of releasing assessment plans and protocols for newly initiated assessments. In the draft IRIS formaldehyde assessment, the “Preface on Assessment Methods and Organization” describes the methods and approaches applied to develop the assessment, with additional methodological considerations provided in the appendices. The information provided in the Preface and Appendices of the draft formaldehyde assessment are comparable to the information in an IRIS assessment protocol. EPA received public comments on the draft assessment in 2022 and anticipates receiving independent external peer review comments in 2023 from the National Academy of Science, Engineering, and Medicine (NASEM).

39. Please explain how the agency would use the \$4 million and 19 FTEs requested to address outstanding recommendations from the Government Accountability Office (GAO) for the IRIS program.

EPA RESPONSE: EPA’s IRIS Program supports EPA’s mission to protect human health and the environment by identifying and characterizing the health hazards of chemicals found in the environment. Since 2009, GAO has identified IRIS and

TSCA as high-risk programs under *Transforming EPA's Processes for Assessing and Controlling Toxic Chemicals*, and the programs have undergone multiple GAO audits. In April 2023, GAO released the latest High-Risk Report, which saw EPA improve across three of the five rating criteria (leadership commitment, demonstrated progress, and monitoring) for the IRIS Program. EPA has continued to prioritize addressing open GAO recommendations associated with the IRIS Program. As of June 2023, EPA has successfully resolved 18 of 22 GAO IRIS recommendations provided over this period and has requested closure of the four remaining open recommendations. Any additional funds appropriated to EPA's IRIS Program will be used to advance efforts to remove the IRIS Program from the High-Risk List by continuing recent progress in advancing assessments through the 7-step IRIS process.

40. How does the EPA intend to address the criticisms of the IRIS program from reputable scientific and regulatory oversight entities such as the National Academy of Sciences and GAO?

EPA RESPONSE: EPA's IRIS Program supports EPA's mission to protect human health and the environment by identifying and characterizing the health hazards of chemicals found in the environment. EPA is committed to ensuring the IRIS Program provides high-quality assessments that adhere to the highest standards of scientific integrity and that are both transparent and timely. Since 2009, EPA has incorporated and addressed recommendations by GAO and the National Academy of Science, Engineering, and Medicine (NASEM) to streamline the assessment development process, improve transparency, and create efficiencies within the IRIS Program. NASEM reviews in 2014 and 2018 commended the substantive progress made in improving the IRIS Program. In 2021, NASEM favorably reviewed the IRIS Handbook, which describes the methods used to produce IRIS assessments, and the Handbook was finalized in December 2022.

Similarly, EPA has made significant progress in addressing outstanding GAO recommendations provided to the IRIS Program. As of April 2023, EPA has successfully resolved 18 of 22 GAO IRIS recommendations provided over this period and has requested closure of three of the four remaining open recommendations. EPA anticipates requesting closure of the remaining recommendation in FY2023. EPA saw significant improvement regarding the IRIS program in GAO's 2023 High Risk Ratings across multiple high-risk criteria.

41. Why has the Agency failed to act on outstanding GAO recommendations when some date back over a decade?

EPA RESPONSE: EPA's IRIS Program supports EPA's mission to protect human health and the environment by identifying and characterizing the health hazards of chemicals found in the environment. As of June 2023, EPA has successfully resolved 18 of 22 GAO IRIS recommendations provided over this period and has requested closure of the four remaining open recommendations. EPA saw significant

improvement regarding the IRIS program in GAO's 2023 High Risk Ratings across multiple high-risk criteria.

42. On January 5, 2023, the EPA proposed an update to the National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants. My staff has heard concerns about a lack of compliance with the Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA) as it relates to this proposal. How is the EPA planning to address any potential violations of the RFA and SBREFA from the proposal in order to minimize the impacts of the rule?

EPA RESPONSE: The National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Lime Manufacturing Plants applies to commercial and captive lime manufacturing plants that are located at a major stationary source of hazardous air pollutants (HAP). The rule regulates particulate matter (PM) emissions, as a surrogate for the non-volatile and semi-volatile metal HAP, from lime kilns, coolers, and certain material processing operations. The Agency issued a proposed rule on January 5, 2023, to amend the NESHAP to ensure that all emissions of HAP from sources in the source category are regulated.

Since the issuance of the proposed rule, the Agency also has received comments related to Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA) compliance. EPA has notified the Small Business Administration's Office of Advocacy and the Office of Management and Budget of our intent to conduct a Small Business Advocacy Review Panel. The EPA web page on this topic is at <https://www.epa.gov/reg-flex/potential-sbar-panel-national-emission-standards-hazardous-air-pollutants-lime>. The Panel process for the Lime Manufacturing Plants NESHAP will provide an opportunity for small businesses, small governments, and small organizations (collectively referred to as small entities) to provide advice and recommendations to ensure that EPA carefully considers small entity concerns.

43. Given the Agency's analysis in the National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants proposal showed minimal public health benefits from the rule, does the EPA plan to adopt maximum flexibilities allowed under the Clean Air Act to minimize any potential burden on the lime industry?

EPA RESPONSE: As noted above, EPA issued a proposed rule on January 5, 2023, to amend the NESHAP for Lime Manufacturing Plants to ensure that all emissions of HAP from sources in the source category are regulated. The Agency held a public comment period on the proposed rule, which concluded on February 21, 2023. We are currently reviewing public comments, and we intend to convene a SBAR Panel to advise EPA on addressing small entity concerns.

Senator Cramer

1. Administrator Regan, last winter the North American Reliability Corporation released its Long-Term Reliability Assessment which concluded Electricity generation retirements in the Midcontinent Independent System Operator region are outpacing replacement capacity. Similarly, the PJM Interconnection recently projected it will lose 40 GW of generating capacity by 2030 with only 31 GW of capacity additions over the same period. PJM projected that upcoming retirements will mostly be policy-driven. As these concerning reliability reports continue to come out and the EPA issues more and more proposed and final regulations which will result in coal-fired generation retirements – such as the Regional Haze second planning period regulations, Interstate Transport, Effluent Limitations Guidelines, Coal Combustion Residuals regulations, and Mercury and Air Toxics Standards – Congress is hearing from states and communities who are worried the risk of blackouts is only growing with little care from the Agency.
 - a. Can you please list the consultations EPA has conducted with the Department of Energy, FERC, Independent System Operators, and states in connection with potential capacity impacts of planned, or proposed, and final EPA rules affecting the nation's power sector?

EPA RESPONSE: We all depend on a resilient power sector for affordable and reliable electricity. Maintaining grid reliability is a critical focus for the power sector as the country's generation mix shifts while extreme weather events become more frequent due to climate change. We develop our rules to make sure that there is no conflict between resource adequacy and environmental compliance. EPA has an excellent track record of establishing clean air protections that reduce harmful air pollution and benefit public health while preserving power companies' ability to deliver reliable and affordable electricity. As EPA works to develop other Clean Air Act requirements for power plants, the Agency is committed to providing regulatory certainty and a long-term planning horizon that protects public health and communities, allows states, grid operators, and power companies to make informed investment and planning decisions, and preserves the ability of the industry to deliver reliable and affordable electricity.

EPA actively engages directly with the electricity sector in the course of our rulemakings, including system operators, state regulators, the Department of Energy (DOE), the Federal Energy Regulatory Commission (FERC), and other parties that have responsibility for ensuring reliability and affordability in the electric supply. Furthermore, federal agencies such as DOE and FERC participate in interagency reviews of rules before they are signed, and we regularly confer with other expert agencies outside the interagency review process. As one example of this engagement, EPA held meetings with states, multi-state groups, and reliability authorities to discuss the proposed Good Neighbor Plan for the 2015 ozone NAAQS. Initial meetings included nine states as well as NESCAUM, WRAP, MARAMA, LADCO, CenSARA, TCEQ, the EGU Workgroup, MISO and PJM. After the public comment period for the Good Neighbor Plan closed, EPA hosted a series of

meetings with all RTOs/ISOs and balancing authorities that submitted comment on the rule, including MISO, SPP, ERCOT, PJM, and balancing authorities in the Western and Southern U.S. to discuss reliability issues.

In response to comments received, EPA adopted several changes in the final Good Neighbor Plan to address reliability concerns, while still achieving the clean air and public health objectives of the Clean Air Act. The final rule:

- Provides greater compliance flexibility for power plants by deferring “backstop” emission rate requirements for plants that currently do not have state-of-the-art controls until no later than 2030.
- Enhances the availability of allowances during a period of relatively rapid fleet transition by allowing power plant owners and operators to “bank” allowances at a higher level through 2030.
- Provides greater certainty for grid operators and power companies by establishing a predictable minimum quantity of allowances available through 2029.

Additionally, in support of our work addressing reliability, DOE and EPA signed a Joint Memorandum of Understanding (MOU) on Interagency Communication and Consultation on Electric Reliability on March 9, 2023. This agreement provides a framework for both agencies to unlock the reliability advantages of the growing clean energy economy. It builds upon longstanding engagement from DOE and EPA with the power sector and further commits the agencies to routine and comprehensive communication about policies, programs, and activities regarding electric reliability. This includes sharing information and analysis, and ongoing monitoring and outreach to key stakeholders to proactively address reliability challenges.

2. Administrator Regan, on January 25, 2023, the Coal Creek Station, owned by Rainbow Energy Center, was informed of denial for their alternative liner application for the impoundment of coal combustion residuals (CCR). On April 4, 2023, I sent you a letter on the denial and requested you reconsider the decision given the site was independently analyzed and conservatively modeled with the results demonstrating the facility’s CCR liner is equally, if not more, protective of human health and the environment as the prescriptive liner.

- a. Do you commit to reviewing the letter I sent you?

EPA RESPONSE: Yes. The Agency received your letter, and we are currently reviewing it.

- b. Will you reconsider Coal Creek’s alternative liner application?

EPA RESPONSE: EPA has not yet taken final action with respect to the Coal Creek Station application to continue operating an unlined impoundment in compliance with the CCR rule. The application has been proposed to be denied because the Agency’s analysis found that the application failed to demonstrate that the surface impoundments comply with the CCR regulation on critical environmental, health, and safety aspects such as groundwater monitoring, location restrictions, and contaminant data. EPA provided 60 days for the facility and other interested parties to comment on EPA’s analysis. EPA will issue a final decision only after considering all of the information provided during the comment period in response to the proposal.

Senator Lummis

1. When EPA adopted federal coal combustion residual (CCR) regulations in 2015, it had little choice but to establish what is known as a “self-implementing” CCR regulatory program because it lacked the statutory authority to require compliance through either a state or federal permit program. Congress corrected this problem with the passage of the 2016 WIIN Act and authorized a federal permit program for CCR units in states that don’t establish their own permit program. EPA issued a proposed federal permit program back in February of 2020. Since that time, Congress has provided EPA with a total of \$27 million to finalize and implement the federal permit program. This federal permit program is a critical piece for utilities complying with federal CCR regulations and an important part of protecting public health and the environment. I understand EPA currently plans to finalize this program by this July. Can you commit to sticking to that timeline for getting this permit program finalized?

EPA RESPONSE: The regulations to implement the federal permit program were proposed in 2020 and EPA is targeting the release of the final rule later this year.

- a. Can you provide details on what changes, if any, you expect to be made between the proposed and final rule?

EPA RESPONSE: We are currently reviewing the extensive public comments on the proposed rule and working to develop a final rule. EPA cannot provide a summary of any changes at this time as they are all still under development.

- b. How many full-time trained and qualified staff members has EPA committed to implementation of the federal permit program?

EPA RESPONSE: The FY 2024 President’s Budget requests \$4.6 million, including 22.5 FTE, to provide sufficient staffing levels to implement the coal combustion residual federal permitting program.

- c. Will EPA commit to prioritizing issuance of individual permits on an expedited basis?

EPA RESPONSE: The FY 2024 President’s Budget requests \$4.6 million, including 22.5 FTE, to provide sufficient staffing levels to implement the coal combustion residual federal permitting program.

- 2. Administrator Regan, in November 2022, a Government Accountability Office (GAO) report on EPA’s administration of the Small Refinery Exemption program under the RFS found that “EPA has no policies or procedures for how it assesses petitions and makes exemption decisions. ... Consequently, agency decisions appear ad hoc, resulting in market uncertainty. This can harm small refineries and renewable fuel producers...”
 - a. Do you commit to implementing all of the recommendations in the GAO report, including establishing a transparent, consistent SRE process as Congress directed in the Energy Independence and Security Act of 2007? When will you implement the recommendations?
 - b. Do you commit to implementing the recommendations before finalizing additional RFS obligations on small refineries?
 - c. The report states that its analysis found that “small refineries have paid more on average for compliance credits than large refineries.” Do you agree with this GAO finding?

EPA RESPONSE: As required by 31 U.S.C. § 720, EPA has submitted to the appropriate Congressional committees its final response letter documenting our concerns with GAO’s November 2022 Final Report entitled, Renewable Fuel Standard: Actions Needed to Improve Decision-Making in the Small Refinery Exemption Program (GAO-23-104273 & GAO 23-105801). EPA has reviewed the Final GAO Report and strongly disagrees with its primary analysis, conclusions, and recommendations with respect to EPA’s Small Refinery Exemption (SRE) program. EPA partially agrees with several other recommendations. We encourage you to read our final response letter, which describes the underlying economic data and analysis that are the basis of EPA’s conclusions. Our final response letter is publicly available at <https://www.epa.gov/system/files/documents/2023-05/EPA-Response-to-Final-GAO-SRE-Report-Letter-to-House-and-Senate-Appropriations-Committees.pdf>.

Senator Ricketts

- 1. EPA has proposed volumes for advanced biofuel and biomass-based diesel into the future that are below what the industry is capable of producing today. This zero-growth scenario is inconsistent with credible market estimates on supply. It fails to acknowledge the expected growth of the renewable diesel capacity to approximately 6 billion gallons by 2026; and it fails to acknowledge the projects announced to help support the growing demand for biofuels like the \$6 billion investment in over 21 projects to increase crush capacity that are now in jeopardy as a result of the proposal. After promising an upward

trajectory for advanced biofuels – which have always been the goal of the RFS – why has the EPA proposed volumes for advanced biofuel and biomass-based diesel into the future that are below what the industry is producing today?

EPA RESPONSE: The Renewable Fuel Standard program can deliver not just environmental benefits but economic and energy security benefits as well. Biofuels can reduce greenhouse gas emissions from the transportation sector while providing farmers with significant economic opportunities. In December 2022, EPA issued proposed volumes for 2023-2025, including increases in the advanced biofuel standard based on our assessment of potential market growth over these years and taking into consideration all the factors required by the statute. We very much appreciate the considerable stakeholder input we have received—including those who commented in support of higher volumes of advanced biofuel and biomass-based diesel. We are taking it all into consideration as we develop the final rule, which we will do by June 14.

2. Sugarbeet producers in my home state of Nebraska will face serious economic losses because of the invasive weed, Palmer amaranth. There is no approved crop protection tool for use by sugarbeets for Palmer control registered in the U.S. I understand that the State of Nebraska has asked for emergency use of a product registered in Europe, metamitron. Sugarbeet producers in Nebraska will face serious economic losses if this chemistry is not approved. What is EPA's timeline for getting this product into the hand of farmers in my state to mitigate this emergency?

EPA RESPONSE: EPA understands the seriousness of the weed management issues facing sugar beet producers in Nebraska. In 2021, the Agency approved an emergency exemption for the use of acifluorfen to the state of Nebraska to address this pest problem. Metamitron is an unregistered pesticidal active ingredient in the United States and like all new pesticides, it requires extensive evaluation for EPA to make safety determinations. In this case, the EPA's review is underway, but is not far enough along to conclude safety and support its use in the near term. In addition, as of April 24, 2023, EPA has not received the additional toxicology information that was requested from the registrant, and as of April 24, 2023, the Agency also does not have residue data that are necessary to conduct a dietary assessment and set a time-limited tolerance (maximum allowable pesticide residue on food) for pesticide residues in sugar beets. Given the status of the EPA's review, EPA will not be able to grant an emergency exemption authorization for the 2023 growing season for metamitron because the Agency is at this time unable to determine that use of the pesticide will not pose unreasonable adverse effects to human health and the environment, or result in a reasonable certainty of no harm, as required by the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act respectively. Although EPA cannot grant the 2023 request, EPA is working diligently with ADAMA, Western Sugar Cooperative, and the Nebraska Department of Agriculture to review and analyze additional data and information for the sugar beet use, specifically residue data, which may allow EPA to set time-limited tolerances under FFDCA. Therefore, EPA believes that a

determination regarding an emergency exemption for use of metamitron on sugar beets for the 2024 growing season may be a more realistic possibility, depending upon the results of the Agency's risk assessment once it receives the necessary data.

3. I am very concerned that in response to pressure from environmental groups, EPA has taken action on a class of products called organophosphates. In this process to revise your risk assessment, EPA is denying growers the ability to comment or review the assessment prior to it taking effect. This is a chilling effect of making the government less transparent as opposed to more. It is also striking because EPA has just put out a risk assessment of these products as recently as 2017 that did go through the proper regulatory process. This action is a significant departure from the due process that Congress expects of the agency. Why is the agency refusing to follow its own standards for transparency in the regulatory process?

EPA RESPONSE: In its effort to address risks from the organophosphates (OPs) to workers who work, mix, load, or apply OPs or conduct certain post-application activities (e.g., workers re-entering treated areas, weeding, hand harvesting, etc.), as well as bystanders (including farmworkers) who may be exposed to spray drift, EPA is taking accelerated and early action by making updated occupational and non-occupational spray drift risk assessments available to the public as they are completed, ensuring that our process is transparent. This is not the first time the Agency has taken steps to identify mitigation measures that can address significant risks outside the registration review process before the completion of all aspects of the re-evaluation process. In this case, the registration reviews for diazinon, ethoprop, tribufos and phosmet were not scheduled to be completed until 2025-2026. After recognizing that several uses of these four pesticides present significant human health risks, and in order to reduce these risks to pesticide handlers and bystanders in the nearer term, EPA began negotiations with the registrants on risks identified in the 2023 occupational and non-occupational spray drift exposure risk assessments. Stakeholders will have an opportunity to comment on registration review for these three cases during the next step of the process, when the proposed interim decisions are published for comment along with fully updated human health risk assessments.

4. I have severe concerns about how EPA's ESA workplan could affect production agriculture. Many of the mitigation measures proposed are well established Natural Resources Conservation Services (NRCS) Conservation Practice Standards (CPS). The NRCS programs are voluntary and incentive-based and are currently oversubscribed. EPA's actions effectively make voluntary measures mandatory. Are EPA and NRCS coordinating to ensure that farmers are compensated?

EPA RESPONSE: EPA is coordinately closely with USDA on the nexus between NRCS Conservation Practice Standards and EPA pesticide mitigation measures. For example, the two agencies held a meeting with over 50 representatives of agricultural organizations on May 12th on this issue. When EPA approves pesticide labeling with mitigation measures that mirror the NRCS practices, EPA is finding

those measures to be necessary under FIFRA. Doing so does not turn the NRCS programs from a voluntary to mandatory one: growers are still entirely free to choose whether to participate in those programs. Rather, EPA has adopted mitigation measures similar to NRCS practices in order to give growers measures that they are likely to be familiar with. EPA is in no way trying to change the NRCS programs or practices. Mandatory mitigation measures found on pesticide labeling must be followed. The Agency is also exploring how to allow growers already using NRCS practices to choose mitigation measures they are already using to comply with the label's mitigation requirements. EPA has heard from multiple agricultural stakeholders who have said that this would be a welcome development in the Agency's ESA implementation efforts.

Senator Sullivan

1. This past week, EPA released its annual Toxic Release Inventory (TRI). Unfortunately, the TRI does not distinguish between permitted activities and illegal, harmful releases. By not specifying the manner of release, the TRI mischaracterizes the harm to the public and frankly undermines the critical work regulators do. Going forward with next year's release of the TRI, will EPA develop a reporting system that accurately reflects the actual risks associated with different types of releases and focus on the entities that actually adversely impact human health and the environment, recognizing true impacts while prioritizing efforts to hold bad actors accountable?

EPA RESPONSE: Under section 313 of the *Emergency Planning and Community Right-to-Know Act*, EPA is required to make available to the public the information reported to the TRI by facilities subject to TRI reporting requirements. By statute, facilities with 10 or more full-time employees, in a covered industry sector, and that manufacture, process, or otherwise use listed chemicals above threshold are required to report releases among other information, and EPA is required to publish the quantities of TRI chemicals facilities released to air, water or land, regardless of whether such releases are adversely impacting human health or the environment. Additionally, EPA has the discretionary authority to extend TRI reporting requirements to specific facilities based on a chemical's toxicity, the facility's proximity to other facilities that release the chemical or to population centers, any history of chemical releases at the facility, or other factors the Administrator deems appropriate.

TRI reporting requirements are not based on facility permitting status nor on the requirements specified with permits. In general, the chemicals subject to TRI reporting are those that cause cancer or other chronic human health effects, significant adverse acute human health effects, and/or significant adverse environmental effects. EPA's statutory responsibility to make information available is not limited to the facilities whose emissions may be adversely impacting human health or the environment.

Information reported to TRI is predominately associated with normal production related activities; any emissions associated with accidental or non-routine activities are reported separately. The public can review these data reported to TRI, which includes the type of release reported (e.g., various methods of disposal to land, water, and air), other waste management methods (e.g., recycling) through several TRI online tools including the interactive TRI National Analysis report. Such information can be useful to the public whether or not the given data reported present exposure concerns for a particular data user.

EPA's TRI Program does not assess the risks of TRI chemicals when it publishes the information received on the chemicals. However, TRI provides useful information about quantities of chemicals released from reporting facilities, serving as an indicator of where further investigation may be warranted. TRI data alone, however, do not indicate whether or to what degree a person is exposed to these chemicals, nor does TRI include all the information necessary to answer questions about individuals' health risks from these chemicals.

The TRI Program has maintained an open dialogue with industry, including the National Mining Association (NMA), to better understand industrial operations and best explain and interpret the TRI information collected and published annually. Collaborations have resulted in the development of interactive diagrams, additional definitions, descriptions, and supplementary material to aid the public in adequate use of TRI data. The Program will continue to improve the collection of quality data and how such data is communicated to the public.

- a. How will the incorporation of PFAS into the TRI, as the EPA has now proposed, with PFAS toxic at such small levels, be ranked to show the public the true risk of their releases?

EPA RESPONSE: As required by law, EPA's TRI Program will continue to make available to the public the TRI information that facilities subject to TRI reporting are required to disclose to EPA. This includes information disclosed on the PFAS that are included on the TRI chemical list. EPA's TRI Program does not assess the risks of TRI chemicals when it publishes the information received on the chemicals. Other EPA programs may use TRI data when conducting risk evaluations on chemicals included on the TRI chemical list.

EPA's TRI National Analysis report includes a section titled "Chemical Profiles," in which EPA's TRI Program provides more detailed analysis of the TRI data disclosed on TRI chemicals that are of particular interest to the public, the EPA, lawmakers, and industry. PFAS are profiled in this section of the TRI National Analysis report.

2. The National Recycling Strategy aims to meet the national goal of raising the recycling rate to 50 percent by 2030. The Strategy requires EPA to implement objectives addressing markets for recycled materials, infrastructure improvements, confusion about what materials can be recycled, and standardized recycling definitions and measures. What is EPA doing to advance its plan for implementing the National Recycling Strategy?
 - a. What is EPA doing to ensure that this process is complementary to the national recycling strategy?

EPA RESPONSE: In November 2021, EPA published the *National Recycling Strategy: Part One of a Series on Building a Circular Economy for All*, the first in a series of strategies that outlines what is needed to improve recycling and help build a circular economy. The Strategy reflects the actions needed from across the value chain to create a stronger, more resilient domestic recycling system. EPA is using IIJA funding to implement parts of the *National Recycling Strategy* through approximately \$140 million in grants to communities this year. These grants will improve solid waste management and recycling systems and infrastructure, increase recycling and composting rates, and improve consumer education and outreach on recycling materials, including food waste and plastics. On May 2, 2023, EPA released Part Two of the strategy series, which focuses on reducing plastic waste and is accepting public comments through June 16, 2023.⁶

In addition to awarding grants, EPA is issuing tools and reports to help communities improve recycling. For instance, the Model Recycling Program Toolkit released in November 2022 is an interactive repository of EPA and other materials that can help communities increase participation in recycling programs and reduce contamination in the recycling stream. Also, in 2023, EPA plans to release a Recycling Infrastructure and Market Opportunities Map which can help cities, states, and regions find end markets for their recycled commodities. The Map visually conveys material generation and recycling tonnages, recycling infrastructure, and end market opportunities across the U.S. As part of the FY 2024 President's Budget request, EPA requests \$12.6 million, including 10 additional FTE, for the Waste Minimization and Recycling Program and \$10 million, including 2 FTE, for the Recycling Infrastructure Program, which will assist EPA with implementation of the National Recycling Strategy, oversight of the Infrastructure Investment and Jobs Act grants, and management of recycling and circular economy practices.

3. EPA has enforced the Agency's "Clean Air Act Title II Vehicle and Engine Civil Penalty Policy" in an extremely heavy-handed manner. The primary goal of EPA's policy is "to ensure that civil administrative penalties are assessed in accordance with the Clean Air Act in a fair and consistent manner." However, since this policy was put in place, multiple small mechanic shops in Alaska have been the targets of questionable EPA enforcement

⁶ <https://www.federalregister.gov/documents/2023/05/02/2023-08970/draft-national-strategy-to-prevent-plastic-pollution-request-for-public-comment>.

actions. EPA has a history of oppressive tactics in Alaska, such as what happened in Chicken, Alaska, in 2013. What is EPA doing to ensure enforcement of the Clean Air Act is fair and consistent?

- a. How many small business mechanic shops did EPA raid for allegedly violating the Clean Air Act in 2022?
- b. Do you believe the EPA should prioritize working with these small business mechanic shops to promote voluntary compliance under the Clean Air Act?

EPA RESPONSE: EPA is committed to the fair and principled enforcement of our Nation’s environmental laws, based on the law and the facts, to protect our communities from the harmful effects of pollution. Since it was established in FY 2020, our current National Enforcement Compliance Initiative (NECI) on Aftermarket Defeat Devices has been focused on stopping the manufacture, sale, and installation of defeat devices on vehicles and engines used on public roads as well as nonroad engines and vehicles in order to reduce air pollution and protect public health. Across the country, EPA conducts investigations of manufacturers, distributors, and sellers of these devices, which are used to render air pollution controls inoperable. Some of these investigations are the result of tips and complaints EPA receives about this prohibited activity. Promoting compliance through public outreach is an important component of our compliance initiative. EPA has given numerous presentations around the country, issued an enforcement alert to raise awareness of the Clean Air Act and the impacts of vehicle tampering, and has developed several resources to educate mechanics and others about what the Clean Air Act requires.

For more than 25 years, EPA has identified national enforcement priorities to focus enforcement and compliance assurance resources on the most serious environmental problems, including those that impact vulnerable and overburdened communities. The NECIs are an effective tool for focusing enforcement and compliance assurance on the most serious and widespread problems and play an important role in protecting overburdened and vulnerable communities. EPA works with our state and tribal partners to provide focused attention on these NECIs that play an important role in protecting human health and the environment. While we cannot discuss open criminal investigations, EPA’s actions to hold intentional violators accountable in Alaska are part of that larger national effort to protect the health and air quality for all Americans.

Senator Wicker

1. Last summer, the City of Jackson was under a boil water advisory for nearly seven weeks. The situation worsened when the Pearl River flooded in August. This caused our capital city’s two drinking water treatment plants to reach their breaking point. Water supply soon became a problem, and many residents were unable to flush their toilets or

take showers. This caused President Biden to declare an emergency following Governor Reeves' declaration of a state of emergency. I worked with the Mississippi congressional delegation to ensure funding was included in the year-end appropriations bill for this crisis. It is my understanding these funds have still not been distributed for the city's water infrastructure needs, in part because EPA is still reviewing intended workplans. Administrator Regan, you have visited our capital city several times since this crisis began. It is clear Jackson and its residents need help and access to clean drinking water. What is your agency's timeline for distributing these funds?

EPA RESPONSE: Thank you, Senator Wicker, for your leadership and this Committee's leadership to obtain \$600 million for the City of Jackson. This \$600 million will help ensure that the city has the resources necessary to stabilize and rebuild the city's water systems. EPA continues to coordinate with the state of Mississippi and the interim third-party manager and an initial award of \$115 million was made in May 2023.

2. Last November, an interim third-party manager was appointed to oversee the City of Jackson's drinking water system. The Stipulated Order that was approved by the U.S. District Court for the Southern District of Mississippi requires the third-party manager to submit quarterly status reports, which the public can access online. I appreciate this transparency and EPA's efforts to maintain communication with the city and the third-party manager. What additional oversight is EPA providing to ensure federal funds and resources are appropriately utilized?

EPA RESPONSE: In addition to the quarterly status reports, the stipulated order gives EPA an oversight role regarding proposed changes to the priority project list and its implementation schedule. EPA will also have a role through the grants process to ensure that the \$600 million in grant funds are spent in accordance with the appropriations statute and applicable federal laws and regulations.

3. On January 9, 2023, EPA and the U.S. Army Corps of Engineers released a Joint Memorandum of Collaboration outlining their commitment to identifying a flood control solution for the Yazoo Backwater Area. I am encouraged by this renewed commitment to resolving this environmental injustice. Additionally, the recent tornado in Rolling Fork was devastating for a community that is already hanging on by a thread. It is imperative that EPA and the Corps address the longstanding issue of flooding in this region so they can confidently rebuild. What steps are you taking to ensure your agency follows the timeline included in the Joint Memorandum of Collaboration?

EPA RESPONSE: The Army and EPA have worked together to deliver a recommended preferred approach to address the Yazoo backwater flooding. Building on the engagements in February to hear from the community and stakeholders regarding impacts and desired outcomes, the agencies hosted another engagement session to discuss the recommended preferred approach with the community and stakeholders on May 4th & 5th in Vicksburg, Mississippi. While in Mississippi, Army, EPA, Fish & Wildlife Service, Department of Transportation,

Federal Emergency Management Agency and the United States Department of Agriculture also hosted a session to provide the community with information on resource opportunities in response to the recent tornado and flooding. Army and EPA are considering the feedback from the May engagement to inform delivery of a final recommended preferred approach by the end of June.